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**THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

DOROTHY WEHR, Individually, as
 Wrongful Death Heir, and as Successor-in-
 Interest to KENNETH WEHR, Deceased;
 and DARLENE LOUISE WEHR STARK,
 SHARON ANN WEHR STARWAS
 TSCHANN, ROBERT KENNETH
 WEHR, VINCENT FREDRICK WEHR,
 KENNETH STANFORD WEHR II as
 Legal Heirs of KENNETH WEHR,
 Deceased,

Plaintiffs,

vs.

GENERAL ELECTRIC COMPANY,
 and DOES 1-300,

Defendants.

No. 06-7174-EDL

JOINT MOTION AND STIPULATION TO
 STAY PROCEEDING OR, IN THE
 ALTERNATIVE, TO CONTINUE CASE
 MANAGEMENT DEADLINE AND
 CONFERENCE, AND TO EXTEND TIME;
~~[PROPOSED] ORDER TO STAY;~~
~~[PROPOSED ALTERNATIVE] ORDER~~
~~TO CONTINUE~~

Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and respectfully move the Court for, an Order extending time as set forth in the *Case Management Scheduling Order* filed November 20, 2006 (Document 2), for the following good cause:

On January 8, 2007, Defendant GENERAL ELECTRIC COMPANY filed a Notice to Tag Along Action (Document 7) regarding the pending Multidistrict Litigation (“MDL”) in the Eastern District of Pennsylvania, seeking among other things, to move Jurisdiction of this matter to that District.

1 On July 29, 1991, the Judicial Panel on Multidistrict Litigation (“JPML”) entered an
2 order transferring all asbestos personal injury cases pending in the federal courts to the United
3 States District Court for the Eastern District of Pennsylvania, for coordinated pretrial
4 proceedings pursuant to 28 U.S.C. § 1407. That order also applies to “tag-along actions,” or
5 actions involving common questions of fact filed after January 17, 1991. Such actions are to be
6 transferred to the eastern District of Pennsylvania as part of MDL 875, for coordinated pretrial
7 proceedings.

8 The JPML has held that a district court has the authority to stay pending a transfer order.
9 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)
10 (“[T]hose courts concluding that such issues should be addressed by the transferee judge need
11 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any
12 unnecessary interruption or delay.”)

13 The parties agree that it is likely that the JPML will transfer this matter to the Eastern
14 District of Pennsylvania.

15 However, to date, the Clerk of the JPML has not entered a *Conditional Transfer Order*
16 pursuant to JPML Rule 12(a) or filed an order to show cause why the action should not be
17 transferred, pursuant to JPML Rule 13(b).

18 It is likely the dates set forth in the *Case Management Scheduling Order*, including the
19 deadlines imposed by Federal Rules of Civil Procedure 26, will come to pass before the Clerk of
20 the JPML acts.

21 The parties make this Motion on the grounds that a stay of this action would (a) promote
22 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the
23 parties.

24 Due to the pending action by the Clerk of the JPML, the parties hereby STIPULATE to
25 and respectfully request the Court VACATE its *Case Management Scheduling Order* filed
26 November 20, 2006 (Document 2) and that the Court issue an Order STAYING this action
27 pending the outcome of the MDL Panel’s decision on the merits of the transfer.

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In the alternative, the parties hereby STIPULATE to and respectfully request that the dates set forth in the *Case Management Scheduling Order* filed November 20, 2006 (Document 2), vacated and continued pending the outcome of the JPML's decision on the merits of the transfer. Specifically, these deadlines in this matter include the **February 6, 2007** Rule 26 deadline to meet and confer, and file Joint ADR Certification, the **February 20, 2007** Deadline to complete Initial Disclosures, the **February 20, 2007** deadline to file the Joint Case Management Statement and the Case Management Conference currently set for **February 27, 2007**.

Dated: January 11, 2007

BRAYTON❖PURCELL LLP

/s/ David R. Donadio
By: David R. Donadio
Attorneys for Plaintiff

Dated: January 11, 2007

SEDGWICK, DETERT, MORAN &
ARNOLD, LLP

/s/ Derek Johnson
By: Derek Johnson
Attorneys for Defendant
GENERAL ELECTRIC COMPANY

[PROPOSED] **ORDER TO STAY**

IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case Management Scheduling Order* filed November 20, 2006 (Document 2), are hereby VACATED and that this action is STAYED pending the outcome of the JPML's decision on the merits of the transfer.

Dated: January 16, 2007



Elizabeth D. Laporte
United States Magistrate Court Judge

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